



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

possession with the knowledge and assent of the adjoining owner;¹⁰ but the mere erection of a fence has no effect unless it was intended to mark the line.¹¹

The true test in all cases, whether of agreement or acquiescence, seems to be, not whether there was uncertainty as to the description or location of the land, but whether the boundary marked on the ground was bona fide intended to settle the true line.¹² The courts look with favor upon such settlements without litigation,¹³ if made in good faith, and not as conveyances contrary to the Statute of Frauds;¹⁴ and after a valid agreement,¹⁵ or acquiescence for the prescribed period¹⁶ will not disturb a line so fixed. Such agreement or acquiescence will not be nullified on the ground that the parties might have ascertained the true line,¹⁷ or on the ground of mistake,¹⁸ or unless fraud or undue influence is shown.¹⁹

H. C. K.

Constitutional Law—Delegation of Legislative Power; Regulation of Sale of Poisons.—On March 6, 1907, the State legislature passed an act to regulate the sale of poisons. The question of the constitutionality of this law was raised in the case of *Ex parte Potter*,¹ on the ground that it delegated legislative power to the State Board of Pharmacy. The court held that the particular regulation adopted by the board of pharmacy was not authorized by the statute, but, in passing, sustained the constitutionality of the poison act itself. The case had previously been before the District Court of Appeal, Second District,² the justices of which court had been unable to agree upon a decision of the questions involved.

The poison act enumerated many poisonous, deleterious and injurious drugs and other substances in a list called "Schedule A." It regulated the sale of articles in Schedule A, and in section 4 provided: "When in the opinion of the State board of pharmacy, it is in the interest of the public health, they are hereby empowered to further restrict, or prohibit the retail sale of any poison, by rules not inconsistent with the provisions of this act, by them to be adopted, and

¹⁰ *Burris v. Fitch*, (1888), 76 Cal. 395; 18 Pac. 864.

¹¹ *Allen v. Reed*, (1876), 51 Cal. 362; *Shiels v. Haley*, (1882), 61 Cal. 157.

¹² *White v. Spreckels*, (1888), 75 Cal. 610; 17 Pac. 715; *Dundas v. Lankershim Dist.*, (1909), 155 Cal. 692; 102 Pac. 925.

¹³ *Cavanaugh v. Jackson*, (1891), 91 Cal. 580; 27 Pac. 931.

¹⁴ *Nathan v. Dierssen*, (1901), 134 Cal. 282; 66 Pac. 485; *Lewis v. Ogram*, (1906), 149 Cal. 505; 87 Pac. 60.

¹⁵ *Moyle v. Connolly*, (1875), 50 Cal. 295; *Truett v. Adams*, (1884), 66 Cal. 218; 5 Pac. 96.

¹⁶ *Helm v. Wilson*, (1888), 76 Cal. 476; 18 Pac. 604.

¹⁷ *Loustalot v. McKeel*, (1910), 157 Cal. 634; 108 Pac. 707.

¹⁸ *McGee v. Stone*, (1858), 9 Cal. 600; *Biggins v. Champlin*, (1881), 59 Cal. 113; but see *Smith v. Robarts*, (1885) (Cal.) 9 Pac. 104.

¹⁹ *Bree v. Wheeler*, (1906), 4 Cal. App. 109; 87 Pac. 255.

¹ *Ex parte Potter* (1913), 45 Cal. Dec. 237, 130 Pac. 721.

² *Ex parte Potter* (1912), 126 Pac 1135.

which rules must be applicable to all persons alike." A violation of any of the provisions of the act was declared to be a misdemeanor and an appropriate penalty was prescribed.

The court held that the particular rule adopted by the board of pharmacy was inconsistent with the laws of the State, and therefore by the very terms of the act beyond the power of the board. But, on the larger question of the constitutionality of empowering the board to adopt suitable regulations, the court sustained the poison act, on the principle that the legislature may delegate to an officer or board the determination of a question of fact or a state of things upon which the operation of the law is made to depend, or the regulating by administrative rules of the mode of procedure to carry into effect what the legislature has otherwise enacted.³

This principle has been applied in a case upholding a statute of Congress, delegating to the Interstate Commerce Commission the right to prescribe standards of railway safety appliances, a violation of which was made a misdemeanor;⁴ in a case sustaining a law which delegated to the Secretary of Agriculture the right to make rules and regulations for the use of forest reservations, and declaring a violation thereof a misdemeanor;⁵ in a case sustaining an act delegating to the State board of medical examiners the power to prescribe standards and requirements for the admission of applicants for physicians' certificates;⁶ in a case sustaining an act delegating to the state board of architecture the authority to prescribe qualifications for licensed architects, and making it a misdemeanor to practice the profession of architecture without a certificate from the board.⁷

W. C. J.

Corporations—Collection of Unpaid Stock Subscriptions—Assessments.—In the case of *Los Angeles Athletic Club v. Spires*,¹ the Supreme Court of California decided that a corporation could not proceed directly against a stockholder on his subscription contract for the unpaid portion of his stock subscription. The court held that the amount due on the subscription contract could be recovered only by assessment under the Code.² It is admitted by the court that where the subscription agreement contains an express promise to pay at a stated time or to pay upon the call of the directors an action will lie upon the agreement.³ Where, as in the case at bar, there are no such provisions, but the agreement is merely a promise to pay a certain amount for a certain number of shares, the

³ *United States v. Moody* (1908), 164 Fed. 269.

⁴ *St. Louis & Iron Mountain Ry. v. Taylor*, (1907), 210 U. S. 281.

⁵ *United States v. Grimaud* (1910), 220 U. S. 505.

⁶ *Ex parte Gerino* (1904), 143 Cal. 412, 77 Pac. 166, 66 L. R. A. 269.

⁷ *Ex parte McManus* (1907) 151 Cal. 331; 90 Pac. 702.

¹ (Feb. 21, 1913) 45 Cal. Dec. 253.

² California Civil Code, secs. 331, 332, et seq.

³ *Marysville Co. v. Johnson*, (1892) 93 Cal. 538, 29 Pac. 126.